

By the Committees on General Government Appropriations;
Communications and Public Utilities; and Senator Bennett

601-2643-07

1 A bill to be entitled
2 An act relating to emergency communications
3 systems; amending s. 365.171, F.S.;
4 redesignating the Florida Emergency Telephone
5 Act as the "Florida Emergency Communications
6 Number E911 State Plan Act"; providing
7 legislative intent; redefining the term
8 "office" to mean the Technology Program
9 designated by the Secretary of Management
10 Services; revising the duties of the office
11 regarding the state E911 system plan; revising
12 provisions for content of the plan; designating
13 the secretary as the director of the statewide
14 emergency communications number E911 system;
15 removing a provision authorizing the director
16 to employ certain persons; directing the Public
17 Service Commission to adopt rules relating to
18 coin-free 911 calls to be followed by the
19 telecommunications industry; requiring approval
20 of the office for establishing or expanding an
21 emergency communications number E911 system;
22 removing a provision for existing emergency
23 telephone service; authorizing the secretary of
24 the department to apply for and accept federal
25 funding assistance; removing provisions
26 relating to imposition and collection of the
27 911 fee and to the indemnification of local
28 telephone companies; removing a penalty for
29 reporting false information that may result in
30 an emergency response; amending s. 365.172,
31 F.S.; redesignating the Wireless Emergency

1 Communications Act as the "Emergency
2 Communications Number E911 Act"; providing
3 legislative intent; revising definitions;
4 providing for administration of the fees
5 collected; redesignating the Wireless 911 Board
6 as the E911 Board; revising membership, powers,
7 duties, and responsibilities of the board;
8 redesignating the Wireless E911 Fee as the E911
9 Fee; requiring a study relating to collecting
10 the fee on the sale of prepaid wireless
11 service; revising provisions for use of revenue
12 collected; providing for certain disbursements;
13 providing for rates and collection from
14 consumers of voice communication services;
15 providing for the authorized use of the fees
16 collected; providing for indemnification and
17 limitation of liability for local exchange
18 carriers; providing penalties for the misuse of
19 the E911 system; exempting certain prepaid
20 phone cards from provisions limiting expiration
21 dates; authorizing additional positions and
22 providing appropriations; providing an
23 effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 365.171, Florida Statutes, is
28 amended to read:

29 365.171 Emergency communications ~~telephone~~ number E911
30 state plan. ~~"911."~~

31

1 (1) SHORT TITLE.--This section ~~may be shall be known~~
2 ~~and~~ cited as the "Florida Emergency Communications Number E911
3 State Plan Telephone Act."

4 (2) LEGISLATIVE INTENT.--It is the intent of the
5 Legislature that the communications number "911" be the
6 designated emergency communications number. A public safety
7 agency may not advertise or otherwise promote the use of any
8 communications number for emergency response services other
9 than "911." It is further the intent of the Legislature to
10 ~~establish and~~ implement and continually update a cohesive
11 statewide emergency communications telephone number "E911"
12 ~~"911"~~ plan for enhanced 911 services which will provide
13 citizens with rapid direct access to public safety agencies by
14 accessing ~~dialing the telephone number~~ "911" with the
15 objective of reducing the response time to situations
16 requiring law enforcement, fire, medical, rescue, and other
17 emergency services.

18 (3) DEFINITIONS.--As used in this section, the term:

19 (a) "Office" means the Technology Program within the
20 Department of Management Services, as designated by the
21 secretary of the department ~~State Technology Office.~~

22 (b) "Local government" means any city, county, or
23 political subdivision of the state and its agencies.

24 (c) "Public agency" means the state and any city,
25 county, city and county, municipal corporation, chartered
26 organization, public district, or public authority located in
27 whole or in part within this state which provides, or has
28 authority to provide, firefighting, law enforcement,
29 ambulance, medical, or other emergency services.

30
31

1 (d) "Public safety agency" means a functional division
2 of a public agency which provides firefighting, law
3 enforcement, medical, or other emergency services.

4 (4) STATE PLAN.--The office shall develop, maintain,
5 and implement appropriate modifications for a statewide
6 emergency communications E911 ~~telephone number "911"~~ system
7 plan. The plan shall provide for:

8 (a) The ~~establishment of the~~ public agency emergency
9 ~~telephone~~ communications requirements for each entity of local
10 government in the state.

11 (b) A system to meet specific local government
12 requirements. Such system shall include law enforcement,
13 firefighting, and emergency medical services and may include
14 other emergency services such as poison control, suicide
15 prevention, and emergency management services.

16 (c) Identification of the mutual aid agreements
17 necessary to obtain an effective E911 ~~"911"~~ system.

18 (d) A funding provision that identifies ~~which shall~~
19 ~~identify~~ the cost necessary to implement the E911 ~~"911"~~
20 system.

21 ~~(e) A firm implementation schedule which shall include~~
22 ~~the installation of the "911" system in a local community~~
23 ~~within 24 months after the designated agency of the local~~
24 ~~government gives a firm order to the telephone utility for a~~
25 ~~"911" system.~~

26
27 The office shall be responsible for the implementation and
28 coordination of such plan. The office shall adopt any
29 necessary rules and schedules related to public agencies for
30 implementing and coordinating the ~~such~~ plan, pursuant to
31 chapter 120. ~~The public agency designated in the plan shall~~

1 ~~order such system within 6 months after publication date of~~
2 ~~the plan if the public agency is in receipt of funds~~
3 ~~appropriated by the Legislature for the implementation and~~
4 ~~maintenance of the "911" system. Any jurisdiction which has~~
5 ~~utilized local funding as of July 1, 1976, to begin the~~
6 ~~implementation of the state plan as set forth in this section~~
7 ~~shall be eligible for at least a partial reimbursement of its~~
8 ~~direct cost when, and if, state funds are available for such~~
9 ~~reimbursement.~~

10 (5) SYSTEM DIRECTOR.--The secretary of the department
11 ~~director of the office~~ or his or her designee is designated as
12 the director of the statewide emergency communications
13 ~~telephone~~ number E911"911" system and, for the purpose of
14 carrying out the provisions of this section, is authorized to
15 coordinate the activities of the system with state, county,
16 local, and private agencies. ~~The director is authorized to~~
17 ~~employ not less than five persons, three of whom will be at~~
18 ~~the professional level, one at the secretarial level, and one~~
19 ~~to fill a fiscal position, for the purpose of carrying out the~~
20 ~~provisions of this section.~~ The director in implementing the
21 system shall consult, cooperate, and coordinate with local law
22 enforcement agencies.

23 (6) REGIONAL SYSTEMS.--~~Nothing in~~ This section does
24 not ~~shall be construed to~~ prohibit or discourage the formation
25 of multijurisdictional or regional systems; and any system
26 established pursuant to this section may include the
27 jurisdiction, or any portion thereof, of more than one public
28 agency. It is the intent of the Legislature that E911 service
29 be available throughout the state. Expenditure by counties of
30 the E911 fee authorized and imposed under s. 365.172 should
31 support this intent to the greatest extent feasible within the

1 context of local service needs and fiscal capability. This
2 section does not prohibit two or more counties from
3 establishing a combined emergency E911 communications service
4 by an interlocal agreement and using the fees authorized and
5 imposed by s. 365.172 for such combined E911 service.

6 (7) TELECOMMUNICATIONS ~~TELEPHONE~~ INDUSTRY
7 COORDINATION.--The office shall coordinate with the Florida
8 Public Service Commission which shall encourage the Florida
9 telecommunications ~~telephone~~ industry to activate facility
10 modification plans for a timely E911 ~~"911"~~ implementation.

11 (8) COIN TELEPHONES.--The Florida Public Service
12 Commission shall establish rules to be followed by the
13 telecommunications companies ~~telephone utilities~~ in this state
14 designed toward encouraging the provision of coin-free dialing
15 of "911" calls wherever economically practicable and in the
16 public interest.

17 (9) SYSTEM APPROVAL.--No emergency communications
18 ~~telephone~~ number E911 ~~"911"~~ system shall be established and no
19 present system shall be expanded without prior approval of the
20 office.

21 (10) COMPLIANCE.--All public agencies shall assist the
22 office in their efforts to carry out the intent of this
23 section, and such agencies shall comply with the developed
24 plan.

25 ~~(11) EXISTING EMERGENCY TELEPHONE SERVICE. Any~~
26 ~~emergency telephone number established by any local government~~
27 ~~or state agency prior to July 1, 1974, using a number other~~
28 ~~than "911" shall be changed to "911" on the same~~
29 ~~implementation schedule provided in paragraph (4)(c).~~

30 ~~(11)(12)~~ FEDERAL ASSISTANCE.--The secretary of the
31 department ~~office~~ or his or her designee may apply for and

1 accept federal funding assistance in the development and
2 implementation of a statewide emergency communications
3 telephone number E911"911" system.

4 ~~(13) "911" FEE.~~

5 ~~(a) Following approval by referendum as set forth in~~
6 ~~paragraph (b), or following approval by a majority vote of its~~
7 ~~board of county commissioners, a county may impose a "911" fee~~
8 ~~to be paid by the local exchange subscribers within its~~
9 ~~boundaries served by the "911" service. Proceeds from the~~
10 ~~"911" fee shall be used only for "911" expenditures as set~~
11 ~~forth in subparagraph 6. The manner of imposing and collecting~~
12 ~~said payment shall be as follows:~~

13 ~~1. At the request of the county subscribing to "911"~~
14 ~~service, the telephone company shall, insofar as is~~
15 ~~practicable, bill the "911" fee to the local exchange~~
16 ~~subscribers served by the "911" service, on an individual~~
17 ~~access line basis, at a rate not to exceed 50 cents per month~~
18 ~~per line (up to a maximum of 25 access lines per account bill~~
19 ~~rendered). However, the fee may not be assessed on any pay~~
20 ~~telephone in this state. A county collecting the fee for the~~
21 ~~first time may collect the fee for no longer than 36 months~~
22 ~~without initiating the acquisition of its "911" equipment.~~

23 ~~2. Fees collected by the telephone company pursuant to~~
24 ~~subparagraph 1. shall be returned to the county, less the~~
25 ~~costs of administration retained pursuant to paragraph (c).~~
26 ~~The county shall provide a minimum of 90 days' written notice~~
27 ~~to the telephone company prior to the collection of any "911"~~
28 ~~fees.~~

29 ~~3. Any county that currently has an operational "911"~~
30 ~~system or that is actively pursuing the implementation of a~~
31 ~~"911" system shall establish a fund to be used exclusively for~~

1 ~~receipt and expenditure of "911" fee revenues collected~~
2 ~~pursuant to this section. All fees placed in said fund, and~~
3 ~~any interest accrued thereupon, shall be used solely for "911"~~
4 ~~costs described in subparagraph 6. The money collected and~~
5 ~~interest earned in this fund shall be appropriated for "911"~~
6 ~~purposes by the county commissioners and incorporated into the~~
7 ~~annual county budget. Such fund shall be included within the~~
8 ~~financial audit performed in accordance with s. 218.39. A~~
9 ~~report of the audit shall be forwarded to the office within 60~~
10 ~~days of its completion. A county may carry forward on an~~
11 ~~annual basis unspent moneys in the fund for expenditures~~
12 ~~allowed by this section, or it may reduce its fee. However, in~~
13 ~~no event shall a county carry forward more than 10 percent of~~
14 ~~the "911" fee billed for the prior year. The amount of moneys~~
15 ~~carried forward each year may be accumulated in order to allow~~
16 ~~for capital improvements described in this subsection. The~~
17 ~~carryover shall be documented by resolution of the board of~~
18 ~~county commissioners expressing the purpose of the carryover~~
19 ~~or by an adopted capital improvement program identifying~~
20 ~~projected expansion or replacement expenditures for "911"~~
21 ~~equipment and service features, or both. In no event shall the~~
22 ~~"911" fee carryover surplus moneys be used for any purpose~~
23 ~~other than for the "911" equipment, service features, and~~
24 ~~installation charges authorized in subparagraph 6. Nothing in~~
25 ~~this section shall prohibit a county from using other sources~~
26 ~~of revenue for improvements, replacements, or expansions of~~
27 ~~its "911" system. A county may increase its fee for purposes~~
28 ~~authorized in this section. However, in no case shall the fee~~
29 ~~exceed 50 cents per month per line. All current "911" fees~~
30 ~~shall be reported to the office within 30 days of the start of~~
31 ~~each county's fiscal period. Any fee adjustment made by a~~

1 ~~county shall be reported to the office. A county shall give~~
2 ~~the telephone company a 90 day written notice of such fee~~
3 ~~adjustment.~~

4 ~~4. The telephone company shall have no obligation to~~
5 ~~take any legal action to enforce collection of the "911" fee.~~
6 ~~The telephone company shall provide quarterly to the county a~~
7 ~~list of the names, addresses, and telephone numbers of any and~~
8 ~~all subscribers who have identified to the telephone company~~
9 ~~their refusal to pay the "911" fee.~~

10 ~~5. The county subscribing to "911" service shall~~
11 ~~remain liable to the telephone company for any "911" service,~~
12 ~~equipment, operation, or maintenance charge owed by the county~~
13 ~~to the telephone company.~~

14
15 ~~As used in this paragraph, "telephone company" means an~~
16 ~~exchange telephone service provider of "911" service or~~
17 ~~equipment to any county within its certificated area.~~

18 ~~6. It is the intent of the Legislature that the "911"~~
19 ~~fee authorized by this section to be imposed by counties will~~
20 ~~not necessarily provide the total funding required for~~
21 ~~establishing or providing the "911" service. For purposes of~~
22 ~~this section, "911" service includes the functions of database~~
23 ~~management, call taking, location verification, and call~~
24 ~~transfer. The following costs directly attributable to the~~
25 ~~establishment and/or provision of "911" service are eligible~~
26 ~~for expenditure of moneys derived from imposition of the "911"~~
27 ~~fee authorized by this section: the acquisition,~~
28 ~~implementation, and maintenance of Public Safety Answering~~
29 ~~Point (PSAP) equipment and "911" service features, as defined~~
30 ~~in the Florida Public Service Commission's lawfully approved~~
31 ~~"911" and related tariffs and/or the acquisition,~~

1 ~~installation, and maintenance of other "911" equipment,~~
2 ~~including call answering equipment, call transfer equipment,~~
3 ~~ANI controllers, ALI controllers, ANI displays, ALI displays,~~
4 ~~station instruments, "911" telecommunications systems,~~
5 ~~teleprinters, logging recorders, instant playback recorders,~~
6 ~~telephone devices for the deaf (TDD) used in the "911" system,~~
7 ~~PSAP backup power systems, consoles, automatic call~~
8 ~~distributors, and interfaces (hardware and software) for~~
9 ~~computer aided dispatch (CAD) systems; salary and associated~~
10 ~~expenses for "911" call takers for that portion of their time~~
11 ~~spent taking and transferring "911" calls; salary and~~
12 ~~associated expenses for a county to employ a full time~~
13 ~~equivalent "911" coordinator position and a full time~~
14 ~~equivalent staff assistant position per county for the portion~~
15 ~~of their time spent administrating the "911" system; training~~
16 ~~costs for PSAP call takers in the proper methods and~~
17 ~~techniques used in taking and transferring "911" calls; and~~
18 ~~expenses required to develop and maintain all information (ALI~~
19 ~~and ANI databases and other information source repositories)~~
20 ~~necessary to properly inform call takers as to location~~
21 ~~address, type of emergency, and other information directly~~
22 ~~relevant to the "911" call taking and transferring function.~~
23 ~~No wireless telephone service provider shall be required to~~
24 ~~participate in any pilot project or to otherwise implement a~~
25 ~~nonemergency "311" system or similar nonemergency system. The~~
26 ~~"911" fee revenues shall not be used to pay for any item not~~
27 ~~listed, including, but not limited to, any capital or~~
28 ~~operational costs for emergency responses which occur after~~
29 ~~the call transfer to the responding public safety entity and~~
30 ~~the costs for constructing buildings, leasing buildings,~~
31 ~~maintaining buildings, or renovating buildings, except for~~

1 ~~those building modifications necessary to maintain the~~
2 ~~security and environmental integrity of the PSAP and "911"~~
3 ~~equipment rooms.~~

4 ~~7. It is the goal of the Legislature that enhanced~~
5 ~~"911" service be available throughout the state. Expenditure~~
6 ~~by counties of the "911" fees authorized by this section~~
7 ~~should support this goal to the greatest extent feasible~~
8 ~~within the context of local service needs and fiscal~~
9 ~~capability. Nothing in this section shall be construed to~~
10 ~~prohibit two or more counties from establishing a combined~~
11 ~~emergency "911" telephone service by interlocal agreement and~~
12 ~~utilizing the "911" fees authorized by this section for such~~
13 ~~combined "911" service.~~

14 ~~(b) If a county elects to obtain approval of a "911"~~
15 ~~fee by referendum, it shall arrange to place a question on the~~
16 ~~ballot at the next regular or special election to be held~~
17 ~~within the county, substantially as follows:~~

18
19 ~~.... I am in favor of the "911" emergency telephone~~
20 ~~system fee.~~

21 ~~.... I am against the "911" emergency telephone system~~
22 ~~fee.~~

23
24 ~~If a majority of the electors voting on the question approve~~
25 ~~the fee, it may be imposed by the county.~~

26 ~~(c) Any county imposing a "911" fee in accordance with~~
27 ~~the provisions of this subsection shall allow the telephone~~
28 ~~company to retain as an administrative fee an amount equal to~~
29 ~~1 percent of the total "911" fee collected by the telephone~~
30 ~~company.~~

31

1 ~~(14) INDEMNIFICATION AND LIMITATION OF LIABILITY. All~~
2 ~~local governments are authorized to undertake to indemnify the~~
3 ~~telephone company against liability in accordance with the~~
4 ~~telephone company's lawfully filed tariffs. Regardless of any~~
5 ~~indemnification agreement, a telephone company or commercial~~
6 ~~mobile radio service provider as defined in s. 364.02 shall~~
7 ~~not be liable for damages resulting from or in connection with~~
8 ~~"911" service or identification of the telephone number,~~
9 ~~address, or name associated with any person accessing "911"~~
10 ~~service, unless the telephone company or commercial radio~~
11 ~~service provider acted with malicious purpose or in a manner~~
12 ~~exhibiting wanton and willful disregard of human rights,~~
13 ~~safety, or property in providing such services.~~

14 ~~(12)(15)~~ CONFIDENTIALITY OF RECORDS.--Any record,
15 recording, or information, or portions thereof, obtained by a
16 public agency or a public safety agency for the purpose of
17 providing services in an emergency and which reveals the name,
18 address, telephone number, or personal information about, or
19 information which may identify any person requesting emergency
20 service or reporting an emergency by accessing an emergency
21 communications E911 ~~telephone number "911"~~ system is
22 confidential and exempt from the provisions of s. 119.07(1)
23 and s. 24(a), Art. I of the State Constitution, except that
24 such record or information may be disclosed to a public safety
25 agency. The exemption applies only to the name, address,
26 telephone number or personal information about, or information
27 which may identify any person requesting emergency services or
28 reporting an emergency while such information is in the
29 custody of the public agency or public safety agency providing
30 emergency services. A telecommunications ~~telephone~~ company or
31 commercial mobile radio service provider shall not be liable

1 for damages to any person resulting from or in connection with
2 such telephone company's or commercial mobile radio service
3 provider's provision of any lawful assistance to any
4 investigative or law enforcement officer of the State of
5 Florida or political subdivisions thereof, of the United
6 States, or of any other state or political subdivision
7 thereof, in connection with any lawful investigation or other
8 law enforcement activity by such law enforcement officer
9 unless the telecommunications ~~telephone~~ company or commercial
10 mobile radio service provider acted in a wanton and willful
11 manner.

12 ~~(16) FALSE "911" CALLS. Whoever accesses the number~~
13 ~~"911" for the purpose of making a false alarm or complaint or~~
14 ~~reporting false information which could result in the~~
15 ~~emergency response of any public safety agency is guilty of a~~
16 ~~misdemeanor of the first degree, punishable as provided in s.~~
17 ~~775.082 or s. 775.083.~~

18 Section 2. Section 365.172, Florida Statutes, is
19 amended to read:

20 365.172 ~~Wireless~~ Emergency communications telephone
21 number "E911."--

22 (1) SHORT TITLE.--This section may be cited as the
23 "~~Wireless~~ Emergency Communications Number E911 Act."

24 (2) ~~FINDINGS, PURPOSE, AND LEGISLATIVE INTENT.--The~~
25 ~~Legislature finds and declares that:~~

26 ~~(a) The mobile nature of wireless communications~~
27 ~~service creates complexities for providing 911 emergency~~
28 ~~services.~~

29 ~~(b) Wireless telephone service providers are required~~
30 ~~by the Federal Communications Commission to provide wireless~~
31 ~~enhanced 911 (E911) service in the form of automatic location~~

1 ~~identification and automatic number identification pursuant to~~
2 ~~the terms and conditions set forth in an order issued by the~~
3 ~~Federal Communications Commission.~~

4 ~~(c) Wireless telephone service providers and counties~~
5 ~~that operate 911 and E911 systems require adequate funding to~~
6 ~~recover the costs of designing, purchasing, installing,~~
7 ~~testing, and operating enhanced facilities, systems, and~~
8 ~~services necessary to comply with the requirements for E911~~
9 ~~services mandated by the Federal Communications Commission and~~
10 ~~to maximize the availability of E911 services throughout this~~
11 ~~state.~~

12 ~~(d) The revenues generated by the E911 fee imposed~~
13 ~~under this section are required to fund the efforts of the~~
14 ~~counties, the Wireless 911 Board under the State Technology~~
15 ~~Office, and commercial mobile radio service providers to~~
16 ~~improve the public health, safety, and welfare and serve a~~
17 ~~public purpose by providing emergency telephone assistance~~
18 ~~through wireless communications.~~

19 ~~(e) It is necessary and beneficial to levy a fee on~~
20 ~~wireless services and to create the Wireless 911 Board to~~
21 ~~administer fee proceeds as provided in this section.~~

22 ~~(f) It is the intent of the Legislature to:~~

23 ~~(a)1.~~ Establish and implement a comprehensive
24 statewide emergency telecommunications ~~telephone~~ number system
25 that will provide users of voice communications services
26 within the state ~~wireless telephone users~~ with rapid direct
27 access to public safety agencies by accessing dialing the
28 telephone number "911."

29 ~~(b)2.~~ Provide funds to counties ~~local governments~~ to
30 pay certain costs associated with their E911 or the cost of
31 installing and operating wireless 911 systems, to contract for

1 E911 services, and to reimburse wireless telephone service
2 providers for costs incurred to provide 911 or E911 enhanced
3 ~~911~~ services.

4 ~~(c)3-~~ Levy a reasonable fee on users of voice
5 communications services, unless otherwise provided in this
6 section, subscribers of wireless telephone service to
7 accomplish these purposes.

8 (d) Provide for an E911 board to administer the fee,
9 with oversight by the office, in a manner that is
10 competitively and technologically neutral as to all voice
11 communications services providers.

12 (e) Ensure that the fee established is used
13 exclusively for recovery by wireless providers and by counties
14 for costs associated with developing and maintaining E911
15 systems and networks in a manner that is competitively and
16 technologically neutral as to all voice communications
17 services providers.

18
19 It is further the intent of the Legislature that the fee
20 authorized or imposed by this section not necessarily provide
21 the total funding required for establishing or providing E911
22 service.

23 (3) DEFINITIONS.--Only as used in this section and ss.
24 365.171, 365.173, and 365.174, the term:

25 ~~(a) "Active prepaid wireless telephone" means a~~
26 ~~prepaid wireless telephone that has been used by the customer~~
27 ~~during the month to complete a telephone call for which the~~
28 ~~customer's card or balance was decremented.~~

29 ~~(a)(b)~~ "Answering point" means the public safety
30 agency that receives incoming 911 calls and dispatches
31 appropriate public safety agencies to respond to the calls.

1 **(b) "Authorized expenditures" means expenditures of**
2 **the fee, as specified in subsection (9).**

3 (c) "Automatic location identification" means the
4 capability of the E911 service which enables the automatic
5 display of information that defines the approximate geographic
6 location of the wireless telephone, **or the location of the**
7 **address of the wireline telephone,** used to place a 911 call.

8 (d) "Automatic number identification" means the
9 capability of the E911 service which enables the automatic
10 display of the ~~10-digit~~ service number used to place a 911
11 call.

12 (e) "Board" **or E911 Board** means the board of directors
13 of the **E911 Wireless-911 Board established in subsection (5).**

14 (f) "Building permit review" means a review for
15 compliance with building construction standards adopted by the
16 local government under chapter 553 and does not include a
17 review for compliance with land development regulations.

18 (g) "Collocation" means the situation when a second or
19 subsequent wireless provider uses an existing structure to
20 locate a second or subsequent antennae. The term includes the
21 ground, platform, or roof installation of equipment
22 enclosures, cabinets, or buildings, and cables, brackets, and
23 other equipment associated with the location and operation of
24 the antennae.

25 (h) "Designed service" means the configuration and
26 manner of deployment of service the wireless provider has
27 designed for an area as part of its network.

28 (i) "E911" is the designation for **an** ~~a wireless~~
29 enhanced 911 system or ~~wireless~~ enhanced 911 service that is
30 an emergency telephone system or service that provides a
31 subscriber with ~~wireless~~ 911 service and, in addition, directs

1 911 calls to appropriate public safety answering points by
2 selective routing based on the geographical location from
3 which the call originated, or as otherwise provided in the
4 state plan under s. 365.171, and that provides for automatic
5 number identification and automatic location-identification
6 features. E911 service provided by a wireless provider means
7 E911 as defined in the order in accordance with the
8 ~~requirements of the order.~~

9 (j) "Existing structure" means a structure that exists
10 at the time an application for permission to place antennae on
11 a structure is filed with a local government. The term
12 includes any structure that can structurally support the
13 attachment of antennae in compliance with applicable codes.

14 (k) "Fee" means the E911 fee authorized and imposed
15 under subsection (8).

16 (l) "Fund" means the ~~Wireless~~ Emergency Communications
17 Number E911 Telephone System Fund established in s. 365.173
18 and maintained under this section for the purpose of
19 recovering the costs associated with providing 911 service or
20 E911 service, including the costs of implementing the order.
21 The fund shall be segregated into wireless and nonwireless
22 categories.

23 (m) "Historic building, structure, site, object, or
24 district" means any building, structure, site, object, or
25 district that has been officially designated as a historic
26 building, historic structure, historic site, historic object,
27 or historic district through a federal, state, or local
28 designation program.

29 (n) "Land development regulations" means any ordinance
30 enacted by a local government for the regulation of any aspect
31 of development, including an ordinance governing zoning,

1 subdivisions, landscaping, tree protection, or signs, the
2 local government's comprehensive plan, or any other ordinance
3 concerning any aspect of the development of land. The term
4 does not include any building construction standard adopted
5 under and in compliance with chapter 553.

6 (o) "Local exchange carrier" means a "competitive
7 local exchange telecommunications company" or a "local
8 exchange telecommunications company" as defined in s. 364.02.

9 (p) "Local government" means any municipality, county,
10 or political subdivision or agency of a municipality, county,
11 or political subdivision.

12 ~~(q) "Medium county" means any county that has a~~
13 ~~population of 75,000 or more but less than 750,000.~~

14 ~~(q)(r)~~ "Mobile telephone number" or "MTN" means the
15 telephone number assigned to a wireless telephone at the time
16 of initial activation.

17 (r) "Nonwireless category" means the revenues to the
18 fund received from voice communications services providers
19 other than wireless providers.

20 (s) "Office" means the Technology Program within the
21 Department of Management Services, as designated by the
22 secretary of the department ~~State Technology Office.~~

23 (t) "Order" means:

24 1. The following orders and rules of the Federal
25 Communications Commission issued in FCC Docket No. 94-102:

26 a. Order adopted on June 12, 1996, with an effective
27 date of October 1, 1996, the amendments to s. 20.03 and the
28 creation of s. 20.18 of Title 47 of the Code of Federal
29 Regulations adopted by the Federal Communications Commission
30 pursuant to such order.
31

1 b. Memorandum and Order No. FCC 97-402 adopted on
2 December 23, 1997.

3 c. Order No. FCC DA 98-2323 adopted on November 13,
4 1998.

5 d. Order No. FCC 98-345 adopted December 31, 1998.

6 2. Orders and rules subsequently adopted by the
7 Federal Communications Commission relating to the provision of
8 ~~wireless~~ 911 services, including Order Number FCC-05-116,
9 adopted May 19, 2005.

10 (u) "Prepaid calling arrangements" has the same
11 meaning as defined in s. 212.05(1)(e) wireless telephone
12 ~~service" means wireless telephone service that is activated in~~
13 ~~advance by payment for a finite dollar amount of service or~~
14 ~~for a finite set of minutes that terminate either upon use by~~
15 ~~a customer and delivery by the wireless provider of an~~
16 ~~agreed upon amount of service corresponding to the total~~
17 ~~dollar amount paid in advance or within a certain period of~~
18 ~~time following the initial purchase or activation, unless~~
19 ~~additional payments are made.~~

20 ~~(v) "Provider" or "wireless provider" means a person~~
21 ~~or entity who provides service and either:~~

22 1. ~~Is subject to the requirements of the order; or~~

23 2. ~~Elects to provide wireless 911 service or E911~~
24 ~~service in this state.~~

25 ~~(v)(w)~~ "Public agency" means the state and any
26 municipality, county, municipal corporation, or other
27 governmental entity, public district, or public authority
28 located in whole or in part within this state which provides,
29 or has authority to provide, firefighting, law enforcement,
30 ambulance, medical, or other emergency services.

31

1 ~~(w)(x)~~ "Public safety agency" means a functional
2 division of a public agency which provides firefighting, law
3 enforcement, medical, or other emergency services.

4 ~~(x)(y)~~ "Rural county" means any county that has a
5 population of fewer than 75,000.

6 (y) "Service identifier" means the service number,
7 access line, or other unique subscriber identifier assigned to
8 a subscriber and established by the Federal Communications
9 Commission for purposes of routing calls whereby the
10 subscriber has access to the E911 system.

11 ~~(z) "Service" means "commercial mobile radio service"~~
12 ~~as provided under ss. 3(27) and 332(d) of the Federal~~
13 ~~Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq.,~~
14 ~~and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No.~~
15 ~~103-66, August 10, 1993, 107 Stat. 312. The term "service"~~
16 ~~includes the term "wireless" and service provided by any~~
17 ~~wireless real time two way wire communication device,~~
18 ~~including radio telephone communications used in cellular~~
19 ~~telephone service; personal communications service; or the~~
20 ~~functional or competitive equivalent of a radio telephone~~
21 ~~communications line used in cellular telephone service, a~~
22 ~~personal communications service, or a network radio access~~
23 ~~line. The term does not include wireless providers that offer~~
24 ~~mainly dispatch service in a more localized, noncellular~~
25 ~~configuration; providers offering only data, one way, or~~
26 ~~stored voice services on an interconnected basis; providers of~~
27 ~~air to ground services; or public coast stations.~~

28 ~~(aa) "Service number" means the unique 10 digit~~
29 ~~wireless telephone number assigned to a service subscriber.~~

30
31

1 ~~(bb) "Sufficient positive balance" means a dollar~~
2 ~~amount greater than or equal to the monthly wireless surcharge~~
3 ~~amount.~~

4 ~~(z)(cc)~~ "Tower" means any structure designed primarily
5 to support a wireless provider's antennae.

6 ~~(aa) "Voice communications services" means two-way~~
7 ~~voice service, through the use of any technology, which~~
8 ~~actually provides access to E911 services, and includes~~
9 ~~communications services, as defined in s. 202.11, which~~
10 ~~actually provide access to E911 services and which are~~
11 ~~required to be included in the provision of E911 services~~
12 ~~pursuant to orders and rules adopted by the Federal~~
13 ~~Communications Commission. The term includes~~
14 ~~voice-over-Internet-protocol service. For the purposes of this~~
15 ~~section, the term "voice-over-Internet-protocol service" or~~
16 ~~"VoIP service" means interconnected VoIP services having the~~
17 ~~following characteristics:~~

18 ~~1. The service enables real-time, two-way voice~~
19 ~~communications;~~

20 ~~2. The service requires a broadband connection from~~
21 ~~the user's locations;~~

22 ~~3. The service requires IP-compatible customer~~
23 ~~premises equipment; and~~

24 ~~4. The service offering allows users generally to~~
25 ~~receive calls that originate on the public switched telephone~~
26 ~~network and to terminate calls on the public switched~~
27 ~~telephone network.~~

28 ~~(bb) "Voice communications services provider" or~~
29 ~~"provider" means any person or entity providing voice~~
30 ~~communications services, except that the term does not include~~
31

1 any person or entity that resells voice communications service
2 and was assessed the fee by its resale supplier.

3 (cc) "Wireless 911 system" or "wireless 911 service"
4 means an emergency telephone system or service that provides a
5 subscriber with the ability to reach an answering point by
6 accessing the digits "911."

7 (dd) "Wireless category" means the revenues to the
8 fund received from a wireless provider.

9 (ee)~~(dd)~~ "Wireless communications facility" means any
10 equipment or facility used to provide service and may include,
11 but is not limited to, antennae, towers, equipment enclosures,
12 cabling, antenna brackets, and other such equipment. Placing a
13 wireless communications facility on an existing structure does
14 not cause the existing structure to become a wireless
15 communications facility.

16 (ff) "Wireless provider" means a person who provides
17 wireless service and:

- 18 1. Is subject to the requirements of the order; or
19 2. Elects to provide wireless 911 service or E911
20 service in this state.

21 (gg) "Wireless service" means "commercial mobile radio
22 service" as provided under ss. 3(27) and 332(d) of the Federal
23 Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq.,
24 and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No.
25 103-66, August 10, 1993, 107 Stat. 312. The term includes
26 service provided by any wireless real-time two-way wire
27 communication device, including radio-telephone communications
28 used in cellular telephone service; personal communications
29 service; or the functional or competitive equivalent of a
30 radio-telephone communications line used in cellular telephone
31 service, a personal communications service, or a network radio

1 access line. The term does not include wireless providers that
2 offer mainly dispatch service in a more localized, noncellular
3 configuration; providers offering only data, one-way, or
4 stored-voice services on an interconnected basis; providers of
5 air-to-ground services; or public coast stations.

6 (cc) ~~"Wireless 911 system" or "wireless 911 service"~~
7 ~~means an emergency telephone system or service that provides a~~
8 ~~subscriber with the ability to reach an answering point by~~
9 ~~dialing the digits "911." A wireless 911 system is~~
10 ~~complementary to a wired 911 system as provided for in s.~~
11 ~~365.171.~~

12 (4) POWERS AND DUTIES OF THE OFFICE.--The office shall
13 oversee the administration of the fee authorized and imposed
14 on subscribers of voice communications services ~~statewide E911~~
15 ~~service~~ under subsection (8).

16 (5) THE E911 ~~WIRELESS 911~~ BOARD.--

17 (a) The E911 ~~Wireless 911~~ Board is established to
18 administer, with oversight by the office, the fee imposed
19 under subsection (8), including receiving revenues derived
20 from the fee; distributing portions of the ~~such~~ revenues to
21 wireless providers, counties, and the office; accounting for
22 receipts, distributions, and income derived by the funds
23 maintained in the fund; and providing annual reports to the
24 Governor and the Legislature for submission by the office on
25 amounts collected and expended, the purposes for which
26 expenditures have been made, and the status of ~~wireless~~ E911
27 service in this state. In order to advise and assist the
28 office in carrying out the purposes of this section, the
29 board, which shall have the power of a body corporate, has
30 ~~shall have~~ the powers enumerated in subsection (6).

1 (b) The board shall consist of nine ~~seven~~ members, one
2 of whom must be the system director designated under s.
3 365.171(5), or his or her designee, who shall serve as the
4 chair of the board. The remaining eight ~~six~~ members of the
5 board shall be appointed by the Governor and must be composed
6 of four ~~three~~ county 911 coordinators, consisting of a
7 representative from a rural county, a representative from a
8 medium county, a representative from a large county, and an
9 at-large representative recommended by the Florida Association
10 of Counties in consultation with the county 911 coordinators;
11 two local exchange carrier members, one of which must be the
12 local exchange carrier having the greatest number of access
13 lines in the state; and two ~~three~~ members from the wireless
14 telecommunications industry recommended by the Florida
15 Telecommunications Industry Association in consultation with
16 the wireless telecommunications industry. In recommending
17 members from the wireless telecommunications industry,
18 consideration must be given to wireless providers who are not
19 affiliated with local exchange carriers. Not more than one
20 member may be appointed to represent any single provider on
21 the board.

22 (c) The system director, designated under s.
23 365.171(5), or his or her designee, must be a permanent member
24 of the board. Each of the remaining eight ~~six~~ members of the
25 board shall be appointed to a 4-year term and may not be
26 appointed to more than two successive terms. However, for the
27 purpose of staggering terms, two of the original board members
28 shall be appointed to terms of 4 years, two shall be appointed
29 to terms of 3 years, and four ~~two~~ shall be appointed to terms
30 of 2 years, as designated by the Governor. A vacancy on the
31

1 board shall be filled in the same manner as the original
2 appointment.

3 (d) The first vacancy in a wireless provider
4 representative position occurring after July 1, 2007, must be
5 filled by appointment of a local exchange company
6 representative. Until the appointment is made, there shall be
7 only one local exchange company representative serving on the
8 board, notwithstanding any other provision to the contrary.

9 (6) AUTHORITY OF THE BOARD; ANNUAL REPORT.--

10 (a) The board shall:

- 11 1. Administer the E911 fee.
12 2. Implement, maintain, and oversee the fund.
13 3. Review and oversee the disbursement of the revenues
14 deposited into the fund as provided in s. 365.173.

15 a. The board may establish a schedule for implementing
16 wireless E911 service by service area, and prioritize
17 disbursements of revenues from the fund to providers and rural
18 counties as provided in s. 365.173(2)(c) ~~s. 365.173(2)(b)~~ and
19 ~~(f)(e)~~ pursuant to the schedule, in order to implement E911
20 services in the most efficient and cost-effective manner.

21 b. Revenues in the fund ~~collected and deposited into~~
22 ~~the fund for distribution as provided in s. 365.173(2)(b), but~~
23 which have not been disbursed because sworn invoices as
24 required by s. 365.173(2)(c) ~~s. 365.173(2)(b)~~ have not been
25 submitted to the board, may be used ~~utilized~~ by the board as
26 needed to provide grants to ~~rural counties and loans to medium~~
27 counties for the purpose of upgrading E911 systems. The
28 counties must use the funds only for capital expenditures
29 directly attributable to establishing and provisioning E911
30 services, which may include next-generation deployment. Prior
31 to the distribution of grants, the board shall provide 90

1 days' written notice to all counties and publish
2 electronically an approved application process. County grant
3 applications shall be prioritized based on the availability of
4 funds, current system life expectancy, system replacement
5 needs, and Phase II compliance per the Federal Communications
6 Commission. No grants will be available to any county for
7 next-generation deployment until all counties are Phase II
8 complete. Grants provided to rural counties would be in
9 addition to disbursements provided under s. 365.173(2)(c).
10 ~~Loans provided to medium counties shall be based on county~~
11 ~~hardship criteria as determined and approved by the board.~~
12 ~~Revenues utilized for this purpose shall be fully repaid to~~
13 ~~the fund in a manner and under a timeframe as determined and~~
14 ~~approved by the board. The board shall take all actions within~~
15 ~~its authority to ensure that county recipients of such grants~~
16 ~~use and loans utilize these funds only for the purpose under~~
17 ~~which they have been provided and may take any actions within~~
18 ~~its authority to secure county repayment of grant and loan~~
19 ~~revenues upon determination that the funds were not used~~
20 ~~utilized for the purpose under which they were provided.~~

21 c. The board shall reimburse all costs of a wireless
22 provider in accordance with s. 365.173(2)(c) before taking any
23 action to transfer additional funds.

24 d. By September 1, 2007, the board shall authorize the
25 transfer of up to \$15 million to the counties from existing
26 money within the fund established under s. 365.173(1). The
27 money shall be disbursed equitably to all of the counties
28 using a timeframe and distribution methodology established by
29 the board before September 1, 2007, in order to prevent a loss
30 to the counties in the ordinary and expected time value of
31 money caused by any timing delay in remittance to the counties

1 of wireline fees caused by the one-time transfer of collecting
2 wireline fees by the counties to the board. All disbursements
3 for this purpose must be returned to the fund from future
4 remittances by the nonwireless category.

5 e. After taking the action required in
6 sub-subparagraphs a.-d., the board may review and, with all
7 members participating in the vote, adjust the percentage
8 allocations or adjust the amount of the fee, or both, under
9 paragraph (8)(h), and, if the board determines that the
10 revenues in the wireless category exceed the amount needed to
11 reimburse wireless providers for the cost to implement E911
12 services, the board may transfer revenue to the counties from
13 the existing funds within the wireless category. The board
14 shall disburse the funds equitably to all counties using a
15 timeframe and distribution methodology established by the
16 board.

17 4. Review documentation submitted by wireless
18 providers which reflects current and projected funds derived
19 from the ~~E911~~ fee, and the expenses incurred and expected to
20 be incurred~~7~~, in order to comply with the E911 service
21 requirements contained in the order for the purposes of:

22 a. Ensuring that wireless providers receive fair and
23 equitable distributions of funds from the fund.

24 b. Ensuring that wireless providers are not provided
25 disbursements from the fund which exceed the costs of
26 providing E911 service, including the costs of complying with
27 the order.

28 c. Ascertaining the projected costs of compliance with
29 the requirements of the order and projected collections of the
30 ~~E911~~ fee.

31

1 d. Implementing changes to the allocation percentages
2 or adjusting ~~reducing~~ the ~~911~~ fee under paragraph ~~(8)(i)~~
3 ~~(8)(c)~~.

4 5. Meet monthly in the most efficient and
5 cost-effective manner, including telephonically when
6 practical, for the business to be conducted, to review and
7 approve or reject, in whole or in part, applications submitted
8 by wireless providers for recovery of moneys deposited into
9 the wireless category, and to authorize the transfer of, and
10 distribute, the fee allocation to the counties fund.

11 6. Hire and retain employees, which may include an
12 independent executive director who shall possess experience in
13 the area of telecommunications and emergency 911 issues, for
14 the purposes of performing the technical and administrative
15 functions for the board.

16 7. Make and enter into contracts, pursuant to chapter
17 287, and execute other instruments necessary or convenient for
18 the exercise of the powers and functions of the board.

19 ~~8. Take all necessary and reasonable steps by July 1,~~
20 ~~2000, to secure appropriate information and reports from~~
21 ~~providers and otherwise perform all of the functions that~~
22 ~~would be performed by an independent accounting firm prior to~~
23 ~~completing the request for proposals process under subsection~~
24 ~~(7).~~

25 ~~8.9.~~ Sue and be sued, and appear and defend in all
26 actions and proceedings, in its corporate name to the same
27 extent as a natural person.

28 ~~9.10.~~ Adopt, use, and alter a common corporate seal.

29 ~~10.11.~~ Elect or appoint the officers and agents that
30 are required by the affairs of the board.

31

1 ~~11.12.~~ The board may adopt rules under ss. 120.536(1)
2 and 120.54 to implement this section and ss. 365.173 and
3 365.174.

4 ~~12.13.~~ Provide coordination, support, and technical
5 assistance to counties to promote the deployment of advanced
6 911 and E911 systems in the state.

7 ~~13.14.~~ Provide coordination and support for
8 educational opportunities related to E911 ~~911~~ issues for the
9 E911 ~~911~~ community in this state.

10 ~~14.15.~~ Act as an advocate for issues related to E911
11 ~~911~~ system functions, features, and operations to improve the
12 delivery of E911 ~~911~~ services to the residents of and visitors
13 to this state.

14 ~~15.16.~~ Coordinate input from this state at national
15 forums and associations, to ensure that policies related to
16 E911 ~~911~~ systems and services are consistent with the policies
17 of the E911 ~~911~~ community in this state.

18 ~~16.17.~~ Work cooperatively with the system director
19 established in s. 365.171(5) to enhance the state of E911 ~~911~~
20 services in this state and to provide unified leadership for
21 all E911 ~~911~~ issues through planning and coordination.

22 ~~17.18.~~ Do all acts and things necessary or convenient
23 to carry out the powers granted in this section in a manner
24 that is competitively and technologically neutral as to all
25 voice communications services providers, including, but not
26 limited to, consideration of emerging technology and related
27 cost savings, while taking into account embedded costs in
28 current systems.

29 ~~18.19.~~ Have the authority to secure the services of an
30 independent, private attorney via invitation to bid, request
31 for proposals, invitation to negotiate, or professional

1 | contracts for legal services already established at the
2 | Division of Purchasing of the Department of Management
3 | Services.

4 | (b) Board members shall serve without compensation;
5 | however, members are entitled to per diem and travel expenses
6 | as provided in s. 112.061.

7 | (c) By February 28 of each year, the board shall
8 | prepare a report for submission by the office to the Governor,
9 | the President of the Senate, and the Speaker of the House of
10 | Representatives which addresses for the immediately preceding
11 | calendar year: reflects, for the immediately preceding
12 | calendar year, the quarterly and annual receipts and
13 | disbursements of moneys in the fund, the purposes for which
14 | disbursements of moneys from the fund have been made, and the
15 | availability and status of implementation of E911 service in
16 | this state.

17 | ~~(d) By February 28, 2001, the board shall undertake~~
18 | ~~and complete a study for submission by the office to the~~
19 | ~~Governor, the President of the Senate, and the Speaker of the~~
20 | ~~House of Representatives which addresses:~~

21 | 1. The annual receipts, including the total amount of
22 | ~~E911~~ fee revenues collected by each provider, the total
23 | disbursements of money in the fund, including the amount of
24 | fund-reimbursed expenses incurred by each wireless provider to
25 | comply with the order, and the amount of moneys on deposit in
26 | the fund, ~~all as of December 1, 2000.~~

27 | 2. Whether the amount of the ~~E911~~ fee and the
28 | allocation percentages set forth in s. 365.173 have been or
29 | should be adjusted to comply with the requirements of the
30 | order or other provisions of this chapter, and the reasons for
31 |

1 ~~making or not making, if so,~~ a recommended adjustment to the
2 ~~E911~~ fee.

3 3. Any other issues related to providing ~~wireless~~ E911
4 services.

5 4. The status of E911 services in this state.

6 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING
7 FIRM.--

8 (a) The board shall issue a request for proposals as
9 provided in chapter 287 for the purpose of retaining an
10 independent accounting firm. The independent accounting firm
11 shall perform all material administrative and accounting tasks
12 and functions required for administering the ~~E911~~ fee. The
13 request for proposals must include, but need not be limited
14 to:

15 1. A description of the scope and general requirements
16 of the services requested.

17 2. A description of the specific accounting and
18 reporting services required for administering the fund,
19 including processing checks and distributing funds as directed
20 by the board under s. 365.173.

21 3. A description of information to be provided by the
22 proposer, including the proposer's background and
23 qualifications and the proposed cost of the services to be
24 provided.

25 (b) The board shall establish a committee to review
26 requests for proposals which must include the statewide ~~E911~~
27 ~~911~~ system director designated under s. 365.171(5), or his or
28 her designee, and two members of the board, one of whom is a
29 county 911 coordinator and one of whom represents a voice
30 communications services provider ~~the wireless~~
31 ~~telecommunications industry~~. The review committee shall review

1 the proposals received by the board and recommend an
2 independent accounting firm to the board for final selection.
3 By agreeing to serve on the review committee, each member of
4 the review committee shall verify that he or she does not have
5 any interest or employment, directly or indirectly, with
6 potential proposers which conflicts in any manner or degree
7 with his or her performance on the committee.

8 (c) After July 1, 2004, the board may secure the
9 services of an independent accounting firm via invitation to
10 bid, request for proposals, invitation to negotiate, or
11 professional contracts already established at the Division of
12 Purchasing, Department of Management Services, for certified
13 public accounting firms, or the board may hire and retain
14 professional accounting staff to accomplish these functions.

15 (8) ~~WIRELESS~~ E911 FEE.--

16 (a) Each voice communications services home service
17 provider shall collect the a monthly fee described in this
18 subsection imposed on each customer whose place of primary use
19 is within this state. Each provider, as part of its monthly
20 billing process, shall bill the fee as follows. The fee shall
21 not be assessed on any pay telephone in the state.

22 1. Each local exchange carrier shall bill the fee to
23 the local exchange subscribers on a service-identifier basis,
24 up to a maximum of 25 access lines per account bill rendered.

25 2. Except in the case of prepaid wireless service,
26 each wireless provider shall bill the fee to a subscriber on a
27 per-service-identifier basis for service identifiers whose
28 primary place of use is within this state. Before July 1,
29 2009, the fee shall not be assessed on or collected from a
30 provider with respect to an end user's service if that end

31

1 user's service is a prepaid calling arrangement that is
2 subject to s. 212.05(1)(e).

3 a. The board shall conduct a study to determine
4 whether it is feasible to collect E911 fees from the sale of
5 prepaid wireless service. If, based on the findings of the
6 study, the board determines that a fee should not be collected
7 from the sale of prepaid wireless service, it shall report its
8 findings and recommendation to the Governor, the President of
9 the Senate, and the Speaker of the House of Representatives by
10 December 31, 2008. If the board determines that a fee should
11 be collected from the sale of prepaid wireless service, the
12 board shall collect the fee beginning July 1, 2009.

13 b. For purposes of this section, the term:

14 (I) "Prepaid wireless service" means the right to
15 access telecommunications services that must be paid for in
16 advance and is sold in predetermined units or dollars enabling
17 the originator to make calls such that the number of units or
18 dollars declines with use in a known amount.

19 (II) "Prepaid wireless service providers" includes
20 those persons who sell prepaid wireless service regardless of
21 its form, either as a retailer or reseller.

22 c. The study must include an evaluation of methods by
23 which E911 fees may be collected from end users and purchasers
24 of prepaid wireless service on an equitable, efficient,
25 competitively neutral, and nondiscriminatory basis and must
26 consider whether the collection of fees on prepaid wireless
27 service would constitute an efficient use of public funds
28 given the technological and practical considerations of
29 collecting the fee based on the varying methodologies prepaid
30 wireless service providers and their agents use in marketing
31 prepaid wireless service.

1 d. The study must include a review and evaluation of
2 the collection of E911 fees on prepaid wireless service at the
3 point of sale within the state. This evaluation must be
4 consistent with the collection principles of end user charges
5 such as those in s. 212.05(1)(e).

6 e. No later than 90 days after this section becomes
7 law, the board shall require all prepaid wireless service
8 providers, including resellers, to provide the board with
9 information that the board determines is necessary to
10 discharge its duties under this section, including information
11 necessary for its recommendation, such as total retail and
12 reseller prepaid wireless service sales.

13 f. All subscriber information provided by a prepaid
14 wireless service provider in response to a request from the
15 board while conducting this study is subject to s. 365.174.

16 g. The study shall be conducted by an entity competent
17 and knowledgeable in matters of state taxation policy if the
18 board does not possess that expertise. The study must be paid
19 from the moneys distributed to the board for administrative
20 purposes under s. 365.173(2)(e) but may not exceed \$250,000.

21 3. All voice communications services providers not
22 addressed under subparagraphs 1. and 2. shall bill the fee on
23 a per-service-identifier basis for service identifiers whose
24 primary place of use is within the state up to a maximum of 25
25 service identifiers for each account bill rendered.

26
27 The provider may list the fee as a separate entry on each
28 bill, in which case the fee must be identified as a fee for
29 E911 services. A provider shall remit the fee to the board
30 only if the fee is paid by the subscriber. If a provider
31 receives a partial payment for a monthly bill from a

1 subscriber, the amount received shall first be applied to the
2 payment due the provider for providing voice communications
3 service.

4 (b) A provider is not obligated to take any legal
5 action to enforce collection of the fees for which any
6 subscriber is billed. A county subscribing to 911 service
7 remains liable to the provider delivering the 911 service or
8 equipment for any 911 service, equipment, operation, or
9 maintenance charge owed by the county to the provider.

10 (c) For purposes of this section, the state and local
11 governments are not subscribers customers.

12 (d) Each provider may retain 1 percent of the amount
13 of the fees collected as reimbursement for the administrative
14 costs incurred by the provider to bill, collect, and remit the
15 fee. The remainder shall be delivered to the board and
16 deposited by the board into the fund. The board shall
17 distribute the remainder pursuant to s. 365.173.

18 (e) Effective September 1, 2007, voice communications
19 services providers billing the fee to subscribers shall
20 deliver revenues from the fee to the board within 60 days
21 after the end of the month in which the fee was billed,
22 together with a monthly report of the number of service
23 identifiers in each county. Each wireless provider and other
24 applicable provider identified in subparagraph (a)3. shall
25 report the number of service identifiers for subscribers whose
26 place of primary use is in each county. All provider
27 subscriber information provided to the board is subject to s.
28 365.174. If a provider chooses to remit any fee amounts to the
29 board before they are paid by the subscribers, a provider may
30 apply to the board for a refund of, or may take a credit for,
31 any such fees remitted to the board which are not collected by

1 the provider within 6 months following the month in which the
2 fees are charged off for federal income tax purposes as bad
3 debt.

4 (f) The rate of the fee shall be set by the board
5 after considering the factors set forth in paragraphs (h) and
6 (i), but may not exceed ~~shall be~~ 50 cents per month per each
7 service identifier number, beginning August 1, 1999. The fee
8 shall apply uniformly and be imposed throughout the state,
9 except for those counties that, before July 1, 2007, had
10 adopted an ordinance or resolution establishing a fee less
11 than 50 cents per month per access line. In those counties the
12 fee established by ordinance may be changed only to the
13 uniform statewide rate no sooner than 30 days after
14 notification is made by the county's board of county
15 commissioners to the board.

16 (g) It is the intent of the Legislature that all
17 revenue from the fee be used as specified in s.
18 365.173(2)(a)-(h).

19 (h) No later than November 1, 2007, the board may
20 adjust the allocation percentages for distribution of the fund
21 as provided in s. 365.173. When setting the percentages and
22 contemplating any adjustments to the fee, the board shall
23 consider the following:

24 1. The revenues currently allocated for wireless
25 service provider costs for implementing E911 service and
26 projected costs for implementing E911 service, including
27 recurring costs for Phase I and Phase II and the effect of new
28 technologies;

29 2. The appropriate level of funding needed to fund the
30 rural grant program provided for in s. 365.173(2)(f); and

31

1 3. The need to fund statewide, regional, and county
2 grants in accordance with sub-subparagraph (6)(a)3.b.

3 ~~(b) The fee is established to ensure full recovery for~~
4 ~~providers and for counties, over a reasonable period, of the~~
5 ~~costs associated with developing and maintaining an E911~~
6 ~~system on a technologically and competitively neutral basis.~~

7 (i)(c) After July 1, 2001, The board may adjust the
8 allocation percentages or adjust provided in s. 365.173 or
9 ~~reduce~~ the amount of the fee, or both, if necessary to ensure
10 full cost recovery or prevent overrecovery of costs incurred
11 in the provision of E911 service, including costs incurred or
12 projected to be incurred to comply with the order. Any new
13 allocation percentages or reduced or increased fee may not be
14 adjusted for 1 year. The fee may not exceed 50 cents per month
15 per each service identifier number. The board-established fee,
16 and any board-adjustment of the fee, shall be uniform
17 throughout the state, except for the counties identified in
18 paragraph (f). No less than 90 days before the effective date
19 of any adjustment to the fee, the board shall provide written
20 notice of the adjusted fee amount and effective date to each
21 voice communications services provider from which the board is
22 then receiving the fee.

23 ~~(j)(d)~~ State and local taxes do not apply to the fee.

24 ~~(k)(e)~~ A local government may not levy the fee or any
25 additional fee on ~~wireless~~ providers or subscribers for the
26 provision of E911 service.

27 (l) For purposes of this section, the definitions
28 contained in s. 202.11 and the provisions of s. 202.155 apply
29 in the same manner and to the same extent as the definitions
30 and provisions apply to the taxes levied under chapter 202 on
31 mobile communications services.

1 (9) AUTHORIZED EXPENDITURES OF E911 FEE.--

2 (a) For purposes of this section, E911 service
3 includes the functions of database management, call taking,
4 location verification, and call transfer.

5 (b) All costs directly attributable to the
6 establishment or provision of E911 service and contracting for
7 E911 services are eligible for expenditure of moneys derived
8 from imposition of the fee authorized by this section. These
9 costs include the acquisition, implementation, and maintenance
10 of Public Safety Answering Point (PSAP) equipment and E911
11 service features, as defined in the Public Service
12 Commission's lawfully approved 911 and E911 and related
13 tariffs or the acquisition, installation, and maintenance of
14 other E911 equipment, including call answering equipment, call
15 transfer equipment, ANI controllers, ALI controllers, ANI
16 displays, ALI displays, station instruments, E911
17 telecommunications systems, visual call information and
18 storage devices, recording equipment, telephone devices and
19 other equipment for the hearing impaired used in the E911
20 system, PSAP backup power systems, consoles, automatic call
21 distributors, and interfaces, including hardware and software,
22 for computer-aided dispatch (CAD) systems, integrated CAD
23 systems for that portion of the systems used for E911 call
24 taking, network clocks, salary and associated expenses for
25 E911 call takers for that portion of their time spent taking
26 and transferring E911 calls, salary and associated expenses
27 for a county to employ a full-time equivalent E911 coordinator
28 position and a full-time equivalent mapping or geographical
29 data position and a staff assistant position per county for
30 the portion of their time spent administrating the E911
31 system, training costs for PSAP call takers, supervisors, and

1 managers in the proper methods and techniques used in taking
2 and transferring E911 calls, costs to train and educate PSAP
3 employees regarding E911 service or E911 equipment, and
4 expenses required to develop and maintain all information,
5 including ALI and ANI databases and other information source
6 repositories, necessary to properly inform calltakers as to
7 location address, type of emergency, and other information
8 directly relevant to the E911 call-taking and transferring
9 function. Moneys derived from the fee may also be used for
10 next-generation E911 network services, next-generation E911
11 database services, next-generation E911 equipment, and
12 wireless E911 routing systems.

13 (c) The moneys may not be used to pay for any item not
14 listed in this subsection, including, but not limited to, any
15 capital or operational costs for emergency responses which
16 occur after the call transfer to the responding public safety
17 entity and the costs for constructing, leasing, maintaining,
18 or renovating buildings, except for those building
19 modifications necessary to maintain the security and
20 environmental integrity of the PSAP and E911 equipment rooms.

21 (10) LIABILITY OF COUNTIES.--A county subscribing to
22 911 service remains liable to the local exchange carrier for
23 any 911 service, equipment, operation, or maintenance charge
24 owed by the county to the local exchange carrier. As used in
25 this subsection, the term "local exchange carrier" means a
26 local exchange telecommunications service provider of 911
27 service or equipment to any county within its certificated
28 area.

29 (11) INDEMNIFICATION AND LIMITATION OF
30 LIABILITY.--Local governments are authorized to undertake to
31 indemnify local exchange carriers against liability in

1 accordance with the lawfully filed tariffs of the company.
2 Notwithstanding an indemnification agreement, a voice
3 communications services provider is not liable for damages
4 resulting from or in connection with 911 or E911 service, or
5 for identification of the telephone number, or address, or
6 name associated with any person accessing 911 or E911 service,
7 unless the voice communications services provider acted with
8 malicious purpose or in a manner exhibiting wanton and willful
9 disregard of the rights, safety, or property of a person when
10 providing such services. A voice communications services
11 provider is not liable for damages to any person resulting
12 from or in connection with the provider's provision of any
13 lawful assistance to any investigative or law enforcement
14 officer of the United States, this state, or a political
15 subdivision thereof, or of any other state or political
16 subdivision thereof, in connection with any lawful
17 investigation or other law enforcement activity by such law
18 enforcement officer.

19 ~~(9) MANAGEMENT OF FUNDS.—~~

20 ~~(a) Each provider, as a part of its monthly billing~~
21 ~~process, shall collect the fee imposed under subsection (8).~~
22 ~~The provider may list the fee as a separate entry on each~~
23 ~~bill, in which case the fee must be identified as a fee for~~
24 ~~E911 services. A provider shall remit the fee only if the fee~~
25 ~~is paid by the subscriber. If a provider receives a partial~~
26 ~~payment for a monthly bill from a subscriber, the amount~~
27 ~~received shall first be applied to the payment due the~~
28 ~~provider for the provision of telecommunications service.~~

29 ~~(b) In the case of prepaid wireless telephone service,~~
30 ~~the monthly wireless 911 surcharge imposed by subsection (8)~~
31 ~~shall be remitted based upon each prepaid wireless telephone~~

1 ~~associated with this state, for each wireless service customer~~
2 ~~that has a sufficient positive balance as of the last day of~~
3 ~~each month. The surcharge shall be remitted in any manner~~
4 ~~consistent with the wireless provider's existing operating or~~
5 ~~technological abilities, such as customer address, location~~
6 ~~associated with the MTN, or reasonable allocation method based~~
7 ~~upon other comparable relevant data. The surcharge amount or~~
8 ~~an equivalent number of minutes may be reduced from the~~
9 ~~prepaid subscriber's account since a direct billing may not be~~
10 ~~possible. However, collection of the wireless 911 surcharge in~~
11 ~~the manner of a reduction of value or minutes from the prepaid~~
12 ~~subscriber's account does not constitute a reduction in the~~
13 ~~sales price for purposes of taxes that are collected at the~~
14 ~~point of sale.~~

15 ~~(c) A provider is not obligated to take any legal~~
16 ~~action to enforce collection of the fees for which any~~
17 ~~subscriber is billed. The provider shall provide to the board~~
18 ~~each quarter a list of the names, addresses, and service~~
19 ~~numbers of all subscribers who have indicated to the provider~~
20 ~~their refusal to pay the fee.~~

21 ~~(d) Each provider may retain 1 percent of the amount~~
22 ~~of the fees collected as reimbursement for the administrative~~
23 ~~costs incurred by the provider to bill, collect, and remit the~~
24 ~~fee. The remainder shall be delivered to the board and~~
25 ~~deposited in the fund. The board shall distribute the~~
26 ~~remainder pursuant to s. 365.173.~~

27 ~~(e) Each provider shall deliver revenues from the fee~~
28 ~~to the board within 60 days after the end of the month in~~
29 ~~which the fee was billed, together with a monthly report of~~
30 ~~the number of wireless customers whose place of primary use is~~
31 ~~in each county. A provider may apply to the board for a refund~~

1 ~~of, or may take a credit for, any fees remitted to the board~~
2 ~~which are not collected by the provider within 6 months~~
3 ~~following the month in which the fees are charged off for~~
4 ~~federal income tax purposes as bad debt. The board may waive~~
5 ~~the requirement that the fees and number of customers whose~~
6 ~~place of primary use is in each county be submitted to the~~
7 ~~board each month and authorize a provider to submit the fees~~
8 ~~and number of customers quarterly if the provider demonstrates~~
9 ~~that such waiver is necessary and justified.~~

10 ~~(f) For purposes of this section, the definitions~~
11 ~~contained in s. 202.11 and the provisions of s. 202.155 apply~~
12 ~~in the same manner and to the same extent as such definitions~~
13 ~~and provisions apply to the taxes levied pursuant to chapter~~
14 ~~202 on mobile communications services.~~

15 ~~(g) As used in this subsection, the term "provider"~~
16 ~~includes any person or entity that resells wireless service~~
17 ~~and was not assessed the fee by its resale supplier.~~

18 ~~(10) PROVISION OF SERVICES. In accordance with the~~
19 ~~order, a provider is not required to provide E911 service~~
20 ~~until:~~

21 ~~(a) The provider receives a request in writing for~~
22 ~~such service from the county 911 coordinator and the affected~~
23 ~~answering point is capable of receiving and using the data~~
24 ~~elements associated with the service.~~

25 ~~(b) Funds are available under s. 365.173(2)(b).~~

26 ~~(c) The local exchange carrier is able to support the~~
27 ~~E911 system.~~

28 ~~(d) The service area has been scheduled for~~
29 ~~implementation of E911 service by the board pursuant to~~
30 ~~subparagraph (6)(a)3. If a county's 911 coordinator requests~~
31 ~~E911 service from a provider, the coordinator shall also~~

1 ~~request E911 service from all other providers in the area in a~~
2 ~~nondiscriminatory and fair manner.~~

3 (12)~~(11)~~ FACILITATING E911 SERVICE IMPLEMENTATION.--To
4 balance the public need for reliable E911 services through
5 reliable wireless systems and the public interest served by
6 governmental zoning and land development regulations and
7 notwithstanding any other law or local ordinance to the
8 contrary, the following standards shall apply to a local
9 government's actions, as a regulatory body, in the regulation
10 of the placement, construction, or modification of a wireless
11 communications facility. This subsection shall not, however,
12 be construed to waive or alter the provisions of s. 286.011 or
13 s. 286.0115. For the purposes of this subsection only, "local
14 government" shall mean any municipality or county and any
15 agency of a municipality or county only. The term "local
16 government" does not, however, include any airport, as defined
17 by s. 330.27(2), even if it is owned or controlled by or
18 through a municipality, county, or agency of a municipality or
19 county. Further, notwithstanding anything in this section to
20 the contrary, this subsection does not apply to or control a
21 local government's actions as a property or structure owner in
22 the use of any property or structure owned by such entity for
23 the placement, construction, or modification of wireless
24 communications facilities. In the use of property or
25 structures owned by the local government, however, a local
26 government may not use its regulatory authority so as to avoid
27 compliance with, or in a manner that does not advance, the
28 provisions of this subsection.

29 (a) Collocation among wireless providers is encouraged
30 by the state.

31

1 1.a. Collocations on towers, including nonconforming
2 towers, that meet the requirements in sub-sub-subparagraphs
3 (I), (II), and (III), are subject to only building permit
4 review, which may include a review for compliance with this
5 subparagraph. Such collocations are not subject to any design
6 or placement requirements of the local government's land
7 development regulations in effect at the time of the
8 collocation that are more restrictive than those in effect at
9 the time of the initial antennae placement approval, to any
10 other portion of the land development regulations, or to
11 public hearing review. This sub-subparagraph shall not
12 preclude a public hearing for any appeal of the decision on
13 the collocation application.

14 (I) The collocation does not increase the height of
15 the tower to which the antennae are to be attached, measured
16 to the highest point of any part of the tower or any existing
17 antenna attached to the tower;

18 (II) The collocation does not increase the ground
19 space area, commonly known as the compound, approved in the
20 site plan for equipment enclosures and ancillary facilities;
21 and

22 (III) The collocation consists of antennae, equipment
23 enclosures, and ancillary facilities that are of a design and
24 configuration consistent with all applicable regulations,
25 restrictions, or conditions, if any, applied to the initial
26 antennae placed on the tower and to its accompanying equipment
27 enclosures and ancillary facilities and, if applicable,
28 applied to the tower supporting the antennae. Such regulations
29 may include the design and aesthetic requirements, but not
30 procedural requirements, other than those authorized by this
31 section, of the local government's land development

1 regulations in effect at the time the initial antennae
2 placement was approved.

3 b. Except for a historic building, structure, site,
4 object, or district, or a tower included in sub-subparagraph
5 a., collocations on all other existing structures that meet
6 the requirements in sub-sub-subparagraphs (I)-(IV) shall be
7 subject to no more than building permit review, and an
8 administrative review for compliance with this subparagraph.
9 Such collocations are not subject to any portion of the local
10 government's land development regulations not addressed
11 herein, or to public hearing review. This sub-subparagraph
12 shall not preclude a public hearing for any appeal of the
13 decision on the collocation application.

14 (I) The collocation does not increase the height of
15 the existing structure to which the antennae are to be
16 attached, measured to the highest point of any part of the
17 structure or any existing antenna attached to the structure;

18 (II) The collocation does not increase the ground
19 space area, otherwise known as the compound, if any, approved
20 in the site plan for equipment enclosures and ancillary
21 facilities;

22 (III) The collocation consists of antennae, equipment
23 enclosures, and ancillary facilities that are of a design and
24 configuration consistent with any applicable structural or
25 aesthetic design requirements and any requirements for
26 location on the structure, but not prohibitions or
27 restrictions on the placement of additional collocations on
28 the existing structure or procedural requirements, other than
29 those authorized by this section, of the local government's
30 land development regulations in effect at the time of the
31 collocation application; and

1 (IV) The collocation consists of antennae, equipment
2 enclosures, and ancillary facilities that are of a design and
3 configuration consistent with all applicable restrictions or
4 conditions, if any, that do not conflict with
5 sub-sub-subparagraph (III) and were applied to the initial
6 antennae placed on the structure and to its accompanying
7 equipment enclosures and ancillary facilities and, if
8 applicable, applied to the structure supporting the antennae.

9 c. Regulations, restrictions, conditions, or permits
10 of the local government, acting in its regulatory capacity,
11 that limit the number of collocations or require review
12 processes inconsistent with this subsection shall not apply to
13 collocations addressed in this subparagraph.

14 d. If only a portion of the collocation does not meet
15 the requirements of this subparagraph, such as an increase in
16 the height of the proposed antennae over the existing
17 structure height or a proposal to expand the ground space
18 approved in the site plan for the equipment enclosure, where
19 all other portions of the collocation meet the requirements of
20 this subparagraph, that portion of the collocation only may be
21 reviewed under the local government's regulations applicable
22 to an initial placement of that portion of the facility,
23 including, but not limited to, its land development
24 regulations, and within the review timeframes of subparagraph
25 (d)2., and the rest of the collocation shall be reviewed in
26 accordance with this subparagraph. A collocation proposal
27 under this subparagraph that increases the ground space area,
28 otherwise known as the compound, approved in the original site
29 plan for equipment enclosures and ancillary facilities by no
30 more than a cumulative amount of 400 square feet or 50 percent
31 of the original compound size, whichever is greater, shall,

1 | however, require no more than administrative review for
2 | compliance with the local government's regulations, including,
3 | but not limited to, land development regulations review, and
4 | building permit review, with no public hearing review. This
5 | sub-subparagraph shall not preclude a public hearing for any
6 | appeal of the decision on the collocation application.

7 | 2. If a collocation does not meet the requirements of
8 | subparagraph 1., the local government may review the
9 | application under the local government's regulations,
10 | including, but not limited to, land development regulations,
11 | applicable to the placement of initial antennae and their
12 | accompanying equipment enclosure and ancillary facilities.

13 | 3. If a collocation meets the requirements of
14 | subparagraph 1., the collocation shall not be considered a
15 | modification to an existing structure or an impermissible
16 | modification of a nonconforming structure.

17 | 4. The owner of the existing tower on which the
18 | proposed antennae are to be collocated shall remain
19 | responsible for compliance with any applicable condition or
20 | requirement of a permit or agreement, or any applicable
21 | condition or requirement of the land development regulations
22 | to which the existing tower had to comply at the time the
23 | tower was permitted, including any aesthetic requirements,
24 | provided the condition or requirement is not inconsistent with
25 | this paragraph.

26 | 5. An existing tower, including a nonconforming tower,
27 | may be structurally modified in order to permit collocation or
28 | may be replaced through no more than administrative review and
29 | building permit review, and is not subject to public hearing
30 | review, if the overall height of the tower is not increased
31 | and, if a replacement, the replacement tower is a monopole

1 tower or, if the existing tower is a camouflaged tower, the
2 replacement tower is a like-camouflaged tower. This
3 subparagraph shall not preclude a public hearing for any
4 appeal of the decision on the application.

5 (b)1. A local government's land development and
6 construction regulations for wireless communications
7 facilities and the local government's review of an application
8 for the placement, construction, or modification of a wireless
9 communications facility shall only address land development or
10 zoning issues. In such local government regulations or review,
11 the local government may not require information on or
12 evaluate a wireless provider's business decisions about its
13 service, customer demand for its service, or quality of its
14 service to or from a particular area or site, unless the
15 wireless provider voluntarily offers this information to the
16 local government. In such local government regulations or
17 review, a local government may not require information on or
18 evaluate the wireless provider's designed service unless the
19 information or materials are directly related to an identified
20 land development or zoning issue or unless the wireless
21 provider voluntarily offers the information. Information or
22 materials directly related to an identified land development
23 or zoning issue may include, but are not limited to, evidence
24 that no existing structure can reasonably be used for the
25 antennae placement instead of the construction of a new tower,
26 that residential areas cannot be served from outside the
27 residential area, as addressed in subparagraph 3., or that the
28 proposed height of a new tower or initial antennae placement
29 or a proposed height increase of a modified tower, replacement
30 tower, or collocation is necessary to provide the provider's
31 designed service. Nothing in this paragraph shall limit the

1 | local government from reviewing any applicable land
2 | development or zoning issue addressed in its adopted
3 | regulations that does not conflict with this section,
4 | including, but not limited to, aesthetics, landscaping, land
5 | use based location priorities, structural design, and
6 | setbacks.

7 | 2. Any setback or distance separation required of a
8 | tower may not exceed the minimum distance necessary, as
9 | determined by the local government, to satisfy the structural
10 | safety or aesthetic concerns that are to be protected by the
11 | setback or distance separation.

12 | 3. A local government may exclude the placement of
13 | wireless communications facilities in a residential area or
14 | residential zoning district but only in a manner that does not
15 | constitute an actual or effective prohibition of the
16 | provider's service in that residential area or zoning
17 | district. If a wireless provider demonstrates to the
18 | satisfaction of the local government that the provider cannot
19 | reasonably provide its service to the residential area or zone
20 | from outside the residential area or zone, the municipality or
21 | county and provider shall cooperate to determine an
22 | appropriate location for a wireless communications facility of
23 | an appropriate design within the residential area or zone. The
24 | local government may require that the wireless provider
25 | reimburse the reasonable costs incurred by the local
26 | government for this cooperative determination. An application
27 | for such cooperative determination shall not be considered an
28 | application under paragraph (d).

29 | 4. A local government may impose a reasonable fee on
30 | applications to place, construct, or modify a wireless
31 | communications facility only if a similar fee is imposed on

1 applicants seeking other similar types of zoning, land use, or
2 building permit review. A local government may impose fees for
3 the review of applications for wireless communications
4 facilities by consultants or experts who conduct code
5 compliance review for the local government but any fee is
6 limited to specifically identified reasonable expenses
7 incurred in the review. A local government may impose
8 reasonable surety requirements to ensure the removal of
9 wireless communications facilities that are no longer being
10 used.

11 5. A local government may impose design requirements,
12 such as requirements for designing towers to support
13 collocation or aesthetic requirements, except as otherwise
14 limited in this section, but shall not impose or require
15 information on compliance with building code type standards
16 for the construction or modification of wireless
17 communications facilities beyond those adopted by the local
18 government under chapter 553 and that apply to all similar
19 types of construction.

20 (c) Local governments may not require wireless
21 providers to provide evidence of a wireless communications
22 facility's compliance with federal regulations, except
23 evidence of compliance with applicable Federal Aviation
24 Administration requirements under 14 C.F.R. s. 77, as amended,
25 and evidence of proper Federal Communications Commission
26 licensure, or other evidence of Federal Communications
27 Commission authorized spectrum use, but may request the
28 Federal Communications Commission to provide information as to
29 a wireless provider's compliance with federal regulations, as
30 authorized by federal law.

31

1 (d)1. A local government shall grant or deny each
2 properly completed application for a collocation under
3 subparagraph (a)1. based on the application's compliance with
4 the local government's applicable regulations, as provided for
5 in subparagraph (a)1. and consistent with this subsection, and
6 within the normal timeframe for a similar building permit
7 review but in no case later than 45 business days after the
8 date the application is determined to be properly completed in
9 accordance with this paragraph.

10 2. A local government shall grant or deny each
11 properly completed application for any other wireless
12 communications facility based on the application's compliance
13 with the local government's applicable regulations, including
14 but not limited to land development regulations, consistent
15 with this subsection and within the normal timeframe for a
16 similar type review but in no case later than 90 business days
17 after the date the application is determined to be properly
18 completed in accordance with this paragraph.

19 3.a. An application is deemed submitted or resubmitted
20 on the date the application is received by the local
21 government. If the local government does not notify the
22 applicant in writing that the application is not completed in
23 compliance with the local government's regulations within 20
24 business days after the date the application is initially
25 submitted or additional information resubmitted, the
26 application is deemed, for administrative purposes only, to be
27 properly completed and properly submitted. However, the
28 determination shall not be deemed as an approval of the
29 application. If the application is not completed in compliance
30 with the local government's regulations, the local government
31 shall so notify the applicant in writing and the notification

1 | must indicate with specificity any deficiencies in the
2 | required documents or deficiencies in the content of the
3 | required documents which, if cured, make the application
4 | properly completed. Upon resubmission of information to cure
5 | the stated deficiencies, the local government shall notify the
6 | applicant, in writing, within the normal timeframes of review,
7 | but in no case longer than 20 business days after the
8 | additional information is submitted, of any remaining
9 | deficiencies that must be cured. Deficiencies in document type
10 | or content not specified by the local government do not make
11 | the application incomplete. Notwithstanding this
12 | sub-subparagraph, if a specified deficiency is not properly
13 | cured when the applicant resubmits its application to comply
14 | with the notice of deficiencies, the local government may
15 | continue to request the information until such time as the
16 | specified deficiency is cured. The local government may
17 | establish reasonable timeframes within which the required
18 | information to cure the application deficiency is to be
19 | provided or the application will be considered withdrawn or
20 | closed.

21 | b. If the local government fails to grant or deny a
22 | properly completed application for a wireless communications
23 | facility within the timeframes set forth in this paragraph,
24 | the application shall be deemed automatically approved and the
25 | applicant may proceed with placement of the facilities without
26 | interference or penalty. The timeframes specified in
27 | subparagraph 2. may be extended only to the extent that the
28 | application has not been granted or denied because the local
29 | government's procedures generally applicable to all other
30 | similar types of applications require action by the governing
31 | body and such action has not taken place within the timeframes

1 | specified in subparagraph 2. Under such circumstances, the
2 | local government must act to either grant or deny the
3 | application at its next regularly scheduled meeting or,
4 | otherwise, the application is deemed to be automatically
5 | approved.

6 | c. To be effective, a waiver of the timeframes set
7 | forth in this paragraph must be voluntarily agreed to by the
8 | applicant and the local government. A local government may
9 | request, but not require, a waiver of the timeframes by the
10 | applicant, except that, with respect to a specific
11 | application, a one-time waiver may be required in the case of
12 | a declared local, state, or federal emergency that directly
13 | affects the administration of all permitting activities of the
14 | local government.

15 | (e) The replacement of or modification to a wireless
16 | communications facility, except a tower, that results in a
17 | wireless communications facility not readily discernibly
18 | different in size, type, and appearance when viewed from
19 | ground level from surrounding properties, and the replacement
20 | or modification of equipment that is not visible from
21 | surrounding properties, all as reasonably determined by the
22 | local government, are subject to no more than applicable
23 | building permit review.

24 | (f) Any other law to the contrary notwithstanding, the
25 | Department of Management Services shall negotiate, in the name
26 | of the state, leases for wireless communications facilities
27 | that provide access to state government-owned property not
28 | acquired for transportation purposes, and the Department of
29 | Transportation shall negotiate, in the name of the state,
30 | leases for wireless communications facilities that provide
31 | access to property acquired for state rights-of-way. On

1 | property acquired for transportation purposes, leases shall be
2 | granted in accordance with s. 337.251. On other state
3 | government-owned property, leases shall be granted on a space
4 | available, first-come, first-served basis. Payments required
5 | by state government under a lease must be reasonable and must
6 | reflect the market rate for the use of the state
7 | government-owned property. The Department of Management
8 | Services and the Department of Transportation are authorized
9 | to adopt rules for the terms and conditions and granting of
10 | any such leases.

11 | (g) If any person adversely affected by any action, or
12 | failure to act, or regulation, or requirement of a local
13 | government in the review or regulation of the wireless
14 | communication facilities files an appeal or brings an
15 | appropriate action in a court or venue of competent
16 | jurisdiction, following the exhaustion of all administrative
17 | remedies, the matter shall be considered on an expedited
18 | basis.

19 | ~~(13)(12)~~ MISUSE OF ~~WIRELESS~~ 911 OR E911 SYSTEM;
20 | PENALTY.--911 and E911 service must be used solely for
21 | emergency communications by the public. Any person who
22 | accesses the number 911 for the purpose of making a false
23 | alarm or complaint or reporting false information that could
24 | result in the emergency response of any public safety agency;
25 | any person who knowingly uses or attempts to use such service
26 | for a purpose other than obtaining public safety assistance;17
27 | or any person who knowingly uses or attempts to use such
28 | service in an effort to avoid any charge for service, commits
29 | a misdemeanor of the first degree, punishable as provided in
30 | s. 775.082 or s. 775.083. After being convicted of
31 | unauthorized use of such service four times, a person who

1 continues to engage in such unauthorized use commits a felony
2 of the third degree, punishable as provided in s. 775.082, s.
3 775.083, or s. 775.084. In addition, if the value of the
4 service or the service charge obtained in a manner prohibited
5 by this subsection exceeds \$100, the person committing the
6 offense commits a felony of the third degree, punishable as
7 provided in s. 775.082, s. 775.083, or s. 775.084.

8 ~~(14)(13)~~ STATE LAW NOT PREEMPTED.--This section and
9 ss. 365.173 and 365.174 do not alter any state law that
10 otherwise regulates voice communications services providers of
11 telecommunications service.

12 Section 3. Section 501.95(2)(a), Florida Statutes, as
13 created in CS for CS for CS for SB 1638, does not apply to a
14 prepaid card for wireless or wireline telecommunications
15 service.

16 Section 4. Two and one-half full-time equivalent
17 positions are authorized with an associated salary rate of
18 \$151,278, and the sum of \$561,834 in recurring funds is
19 appropriated for the 2007-2008 fiscal year from the Emergency
20 Communications Number E911 System Fund of the Department of
21 Management Services from revenue received pursuant to s.
22 365.173, Florida Statutes, for expenditures related to the
23 creation of the statewide E911 board.

24 Section 5. For the 2007-2008 fiscal year, the sum of
25 \$56 million in recurring funds is appropriated from the
26 Emergency Communications Number E911 System Fund in the
27 Department of Management Services to provide for the
28 distribution of nonwireless fees to counties.

29 Section 6. For the 2007-2008 fiscal year, the sum of
30 \$12,541,000 in recurring funds is appropriated from the
31 Emergency Communications Number E911 System Fund in the

1 Department of Management Services to provide for an increase
2 in the distribution to counties for wireless fees.

3 Section 7. For the 2007-2008 fiscal year, the sum of
4 \$25 million in nonrecurring funds is appropriated from the
5 Emergency Communications Number E911 System Fund and placed in
6 reserve in the Department of Management Services to provide
7 grants to counties pursuant to s. 365.172(6)(a)3.b., Florida
8 Statutes. The department is authorized to request the release
9 of funds pursuant to the provisions in chapter 216, Florida
10 Statutes.

11 Section 8. This act shall take effect upon becoming a
12 law.

13
14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 CS/SB 1198

17 Revises the definition of "Office" to mean the Technology
18 Program in the Department of Management Services.

19 Removes the provision which limits grants to medium and large
20 counties to allow all counties access to grant funds.

21 Specifies that the board develop an application process that
22 prioritizes grants based on the availability of funds, current
23 system life expectancy, system replacement needs, and Phase II
24 compliance.

25 Provides an additional appropriation of \$93.5 million from the
26 Emergency Communications Number E911 System Fund to distribute
27 to counties and providers of E911 services.

28 Makes technical and conforming changes.
29
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31